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July 29, 1993

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HAND DELIVERY

William F. Caton, Acting Secretary
Office of the Secretary, Room 222
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

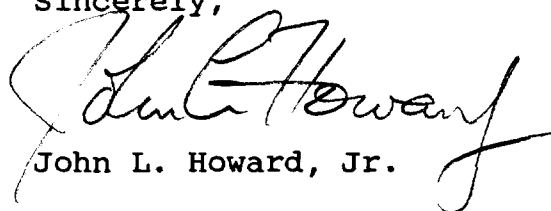
JUL 29 1993

Re: Reply Comments of Telxon Corporation;
Amendment of Part 90 of the Commission's
Rules to Adopt Regulations for Automatic
Vehicle Monitoring Systems;
PR Docket No. 93-61, RM 8013, FCC 93-141

Dear Secretary Caton:

On behalf of Telxon Corporation, enclosed are an original and four copies of the reply comments of Telxon Corporation in the above-referenced proceeding. Please date stamp and return the enclosed extra copy to us.

Sincerely,


John L. Howard, Jr.

Enclosures

No. of Copies rec'd 04
List A B C D E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

JUL 29 1995

FEDERAL COMMUNICATIONS COMMISSION
DIRECTOR OF ADMINISTRATION

In the Matter of)
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Amendment of Part 90 of the)
Commission's Rules to Adopt)
Regulations for Automatic)
Vehicle Monitoring Systems)
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PR Docket No. 93-61
RM 8013
FCC 93-141

REPLY COMMENTS OF TELXON CORPORATION

Telxon Corporation ("Telxon"), by its attorneys,
respectfully submits this reply to the comments filed with the
Commission on the Notice of Proposed Rulemaking ("NPRM") issued
in the above-captioned proceeding.

- the LMS devices would cause severe interference with existing users of the 902-928 MHz band;
- existing users provide valuable services that would be diminished or even decimated by the interference from LMS devices;
- the proposed rule would alter longstanding FCC policy, undercut the investments in research and development that existing users have made, and discourage future investments by undermining confidence in FCC policy; and
- the FCC should be able to promote the benefits of both the existing services and the LMS services by preserving the 902-928 MHz band for the existing users and assigning the LMS devices to another area of the radio spectrum.

The many comments filed on the NPRM suggest a single conclusion: the NPRM should be deferred, if not abandoned.

The comments make clear that there are important interests at stake on both sides of the issue. Existing users provide vital services in the public interest, and LMS providers also cite important services that they offer or hope to develop. The comments also make clear that the interests at stake are competing interests, particularly because allowing the LMS services to use the full 902-928 MHz band would inevitably create interference with existing users, at least given current technologies. Thus, the Commission must balance important, competing interests.

Perhaps most importantly, the comments make clear that there is insufficient evidence now for the Commission to properly weigh and balance the competing interests. Thus, the Commission should, at a minimum, postpone a decision on the NPRM pending the

development of the necessary evidence. The evidence currently lacking includes the following:

First, more data is required on the extent of interference that new LMS services would cause to existing users of the 902-928 MHz band. It is clear that interference is inevitable, given current technologies. Those who filed comments in favor of the NPRM, however, suggested without evidence that the interference would be minimal. Telxon's experience, and the

LMS services, and there is no conclusive evidence yet to show that the LMS services have maximized their efficiency or minimized the band width they require.

Third, further study would allow time for those favoring the NPRM not only to develop evidence on the efficiency of LMS systems using current technology, but also to develop new technology to make those systems even more efficient. This additional time should both allow and promote new refinements that would curb or cure the interference problem. The Commission should require LMS providers to show that they have taken all reasonable steps to avoid impinging on the interests of existing users. Then, if necessity is the mother of invention, LMS providers may well identify new methods of resolving the interference they currently pose.

Finally, further study should be required to consider the relative benefits of LMS systems versus the services of existing users. Given the threatened interference problem, the Commission must consider which interests are paramount; which services best further the public interest. The Commission cannot make that decision responsibly on the current record. Parties favoring the NPRM cite valuable services they would provide, but they ignore the important public interests already served by existing users which would be harmed if the proposed rule were promulgated. The Commission should not risk the harm to the public interest currently served by existing users, at least not

without compelling evidence that other competing interests are superior, and the current record does not contain such evidence.

In sum, Telxon has spent millions of dollars, and the other existing users of the 902-928 MHz band have spent billions, on products and services that rely on being able to operate within that band under longstanding Commission policy. Before reversing Commission policy and ignoring the investments in and benefits of the existing uses of the band, the Commission should address and resolve all the technical and policy issues raised by the NPRM and the comments. That requires further study. Notably, The Part 15 Coalition (a group of 30 companies involved in the development and marketing of wireless unlicensed products) and many other commenters proposed that the Commission seek additional data prior to finalizing any rules. Telxon now joins in those commenters' proposal for additional study.

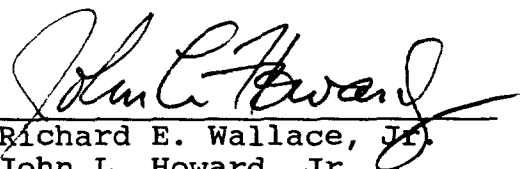
The Commission should be made aware of a published industry report indicating that PacTel Teletrac may be in financial difficulty (see article in "En Route Technology" (Telecom Pub. Group), July 19, 1993). If, as PacTel has urged, market response should be a determining factor in allocation of the radio spectrum, then the market appears to have spoken here, favoring the current Part 15 users over PacTel Teletrac's system. In addition, the report raises doubts about whether PacTel Teletrac would be in a position, were the band allocated as

proposed, to adequately support the system and the needs of its users.

Respectfully submitted,

TELXON CORPORATION

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Dated: July 29, 1993